

REMARKS/ARGUMENTS

The Examiner has delineated distinct inventions as shown on page 2 of the restriction requirement (Office Action dated February 27, 2009).

Applicants provisionally elect with traverse the invention of Group I (Claims 1-7) drawn to a conductive polymer gel.

The claims of Groups I-XIV are integrally linked as compounds, method of making, and method of use.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be serious burden placed on the Examiner if restriction is not required (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusions that the claims of the restricted groups are patentably distinct. Moreover, when making a lack of unit of invention in a national stage application, the Examiner has the burden of explaining why each group lacks unity with each other (i.e., why there is no single inventive concept) specifically describing the unique special technical feature in each group (M.P.E.P. 1893.03(d)).

The Examiner asserts that the groups do not relate to a single general inventive concept under PCT Rule 13.1 and 13.2 because they lack the same corresponding special technical feature.

The Examiner, however, has not considered that the claims in each group are considered related invention under 37 C.F.R. § 1.475(b) in which the inventions are considered to have unity of invention. Applicants submit that while PCT Rule 13.1 and 13.2 are applicable 37 C.F.R. § 1.475(b) provides in relevant part that a national stage application containing claims to different categories of inventions will be considered to have unity of invention if the claims are drawn to a process, compounds, and method of use.

Applicants respectfully traverse on the additional grounds that the Office has not shown that a burden exists in searching the entire application.

Further, the M.P.E.P. § 803 states as follows:

If the search and examination of an entire application can be made without a serious burden the Examiner must examine it on the merits even though it includes claims to distinct and independent inventions.

Applicants submit that a search of all the claims would not constitute a serious burden on the Office. In fact, the International Search Authority has searched all of the claims together. As the Office has not shown any evidence that a restriction should now be required when the International Preliminary Examination Report did not, restriction is believed to be improper.

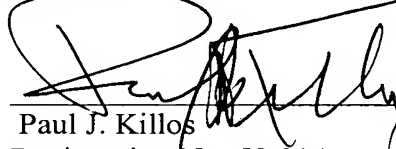
For the reasons set forth above, Applicants request the Restriction Requirement be withdrawn.

Applicants request that if the invention of Group I is found allowable the withdrawn groups which include the limitation of the allowable claims be rejoined (M.P.E.P. § 821.04).

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and an early Notice of such action is earnestly solicited.

Respectfully submitted,

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